

GIBSON, DUNN & CRUTCHER LLP
MARK A. PERRY (*pro hac vice*)
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5306
Telephone: 202.955.8500
mperry@gibsondunn.com

RIMINI STREET, INC.
DANIEL B. WINSLOW (*pro hac vice*)
6601 Koll Center Parkway, Suite 300
Pleasanton, CA 94566
Telephone: 925.264.7736
dwinslow@riministreet.com

GIBSON, DUNN & CRUTCHER LLP
JEFFREY T. THOMAS (*pro hac vice*)
BLAINE H. EVANSON (*pro hac vice*)
JOSEPH A. GORMAN (*pro hac vice*)
CASEY J. MCCracken (*pro hac vice*)
3161 Michelson Drive
Irvine, CA 92612-4412
Telephone: 949.451.3800
jtthomas@gibsondunn.com
bevanson@gibsondunn.com
jgorman@gibsondunn.com
cmccracken@gibsondunn.com

RIMINI STREET, INC.
JOHN P. REILLY (*pro hac vice*)
3993 Howard Hughes Parkway, Suite 500
Las Vegas, NV 89169
Telephone: 336.908.6961
jreilly@riministreet.com

HOWARD & HOWARD ATTORNEYS PLLC
W. WEST ALLEN (Nevada Bar No. 5566)
3800 Howard Hughes Parkway, Suite 1000
Las Vegas, NV 89169
Telephone: 702.667.4843
wwa@h2law.com

GIBSON, DUNN & CRUTCHER LLP
SAMUEL LIVERSIDGE (*pro hac vice*)
ERIC D. VANDEVELDE (*pro hac vice*)
333 South Grand Avenue
Los Angeles, CA 90071-3197
Telephone: 213.229.7000
sliversidge@gibsondunn.com
evandeveld@ibsondunn.com

*Attorneys for Defendant
Rimini Street, Inc.*

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ORACLE USA, INC., et al.,

Plaintiffs,

v.

RIMINI STREET, INC., et al.,

Defendants.

Case No. 2:10-cv-00106-LRH-VCF

**DECLARATION OF CASEY J.
MCCRACKEN IN SUPPORT OF
RIMINI'S EMERGENCY MOTION
UNDER LOCAL RULE 7-4 TO
STRIKE ORACLE'S IMPROPER
EXPERT REPORT SUPPLEMENT**

1 I, Casey J. McCracken, declare as follows:

2 1. I am an associate in the law firm of Gibson, Dunn & Crutcher LLP, and I am
3 one of the attorneys representing Rimini Street, Inc. in the above-captioned case. I submit this
4 declaration pursuant to Local Rule 7-4 in support of Rimini's Emergency Motion to Strike
5 Oracle's Improper Expert Report Supplement. The facts stated in this declaration are based on
6 my personal knowledge, and if called upon as a witness, I would and could testify competently
7 to them.

8 2. Rimini's motion is justifiably brought as an emergency motion under Local Rule
9 7-4 under the circumstances.

10 3. The parties are currently only 28 days away from a six-day evidentiary hearing
11 on the Court's order to show cause which is set to address a discrete set of instances of violations
12 or potential violations of the permanent injunction in this case. *See* ECF No. 1459 at 35. The
13 hearing is set for September 20, 2021. Rimini and its counsel are devoting substantial resources
14 in terms of time and energy preparing for the hearing, as evidenced by the extensive proposed
15 pre-hearing order the parties submitted on Friday, August 20, 2021. *See* ECF No. 1484.

16 4. Discovery precipitating the Court's order to show cause was extensive. *See* ECF
17 No. 1459 at 5. Magistrate Judge Ferenbach ordered that all expert discovery, including
18 depositions, be finished by June 30, 2020 (ECF No. 1354), that all discovery "[d]eadlines [be]
19 strictly enforced," and that any party would require leave of Court to engage in any further
20 discovery (ECF No. 1232 at 2).

21 5. After reviewing Oracle's proposed exhibit list for the hearing, and as part of the
22 negotiations in drafting the proposed pre-hearing order, Rimini's counsel communicated to
23 Oracle that it would be improper for its expert, Ms. Frederiksen-Cross, to offer opinions at the
24 hearing on documents she did not cite or discuss in her reports. On Thursday, August 19,
25 Rimini's counsel stated to Oracle in writing that "a large number of the exhibits on Oracle's
26 exhibit list were not opined on by Ms. Frederiksen-Cross nor cited in her reports" and that,
27 accordingly, "Rimini intends to object to any attempt by Ms. Frederiksen-Cross to give new
28 opinions regarding these documents." ECF No. 1484 at 61.

6. The next day, at approximately 2:17 PM PT, hours before the pre-hearing order was due for filing at midnight, counsel for Oracle served on counsel for Rimini the Supplement to Post-Injunction Expert Reports of Barbara Ann Frederiksen-Cross, which attached hundreds of exhibits that Ms. Frederiksen-Cross has never relied on, cited, opined on, or discussed previously. Her report refers to these as “additional documents.”

7. A true and correct copy of the Supplement is attached as Exhibit 1.

8. That same day, we informed Oracle that the supplement was improper and prejudicial, and that “Rimini intends to file a motion to strike the eleventh-hour report.” ECF No. 1484 at 14.

9. On Saturday, August 21, 2021, Rimini’s counsel further communicated Rimini’s intention to file a motion to strike the supplement and requested that the parties meet and confer on the matter on Monday, August, 23, 2021.

10. I certify that we met and conferred with counsel for Oracle in good faith on August 23, 2021 in an attempt to resolve the dispute, but the parties were unable to resolve the dispute without Court action.

11. Emergency resolution of this Motion is necessary given the extremely short time left before the evidentiary hearing. The ordinary briefing schedule for motions, which lasts a total of 21 days (*see* Local Rule 7-2) would not permit resolution with sufficient time for Rimini to adequately prepare for the hearing.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I executed this declaration on August 23, 2021, at Irvine, California.

Cathy McClure

Casey J. McCracken